

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sasha Linney	Team: Team # 2	CCRB Case #: 200615027	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/08/2006 6:00 PM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 5/8/2008	EO SOL 5/8/2008	
Date/Time CV Reported Fri, 11/10/2006 10:17 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 11/10/2006 10:17 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. LT Christopher McCormack	00000	895704	NARCB BX

Officer(s)	Allegation	Investigator Recommendation
A. LT Christopher McCormack	Abuse: Lieutenant Christopher McCormack supervised the entry and search of § 87(2)(b) in the Bronx.	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)

Synopsis

On November 8, 2006, at approximately 6:30 PM, Lieutenant Christopher McCormack, of Narcotics Boro Bronx, supervised the entry and search of § 87(2)(b) in the Bronx (allegation A). Home at the time was § 87(2)(b) the § 87(2)(b)-old son of § 87(2)(b) and the godson of § 87(2)(b). § 87(2)(b) returned home shortly after, at which time unidentified officers pushed him to the ground and handcuffed him (allegation B). When § 87(2)(b) arrived home, officers arrested her also. The officers found several marijuana cigarettes in the apartment. § 87(2)(b) and § 87(2)(b) were charged with endangering the welfare of a child and possession of marijuana.

§ 87(2)(b) and § 87(2)(b) further alleged that officers seized \$5 and several pieces of gold and diamond jewelry but did not voucher it (referred to the IAB, log # 06-38192).

§ 87(2)(b), § 87(2)(g)

Therefore, allegation A is pleaded against Lieutenant McCormack, who according to the Post-Warrant Entry Form was the supervisor at the scene, and allegation B is pleaded against 'officers.'

Summary of Complaint

§ 87(2)(b) (Complainant/Victim)

§ 87(2)(b) a § 87(2)(b), filed her complaint with the CCRB via the call processing system on November 10, 2006 (Encl. 6a-b). She provided an additional statement via telephone on November 15, 2006 (Encl. 7). Both statements, which were consistent, are summarized here.

§ 87(2)(b) stated that on November 8, 2006, at approximately 6:00 PM, she was on her way home to § 87(2)(b) from § 87(2)(b) in the Bronx via train. She later learned that while she was on the train, her § 87(2)(b)-old son, § 87(2)(b), was briefly home alone while her boyfriend, § 87(2)(b) picked up food for him at a store. When § 87(2)(b) exited from the train, she received a call from a female police officer who said that her son was home alone and that ACS had been notified. § 87(2)(b) a friend who was with § 87(2)(b) immediately called § 87(2)(b) left § 87(2)(b) and rushed home to her apartment (§ 87(2)(b)) to find that approximately 12 plainclothes police officers had kicked in her door and were searching her home. § 87(2)(b) was in the hallway outside her apartment in handcuffs. § 87(2)(b) who had given the police his mother's cell phone number, was inside the apartment. § 87(2)(b)'s apartment was "vandalized"; her sofa was flipped over, the glass door of her entertainment center was broken, her dishes were thrown about and broken, and it looked "like a tornado went through [her] house." The officers had thrown cat litter into her washing machine, which is now broken.

When § 87(2)(b) asked what was going on, she was informed by a sergeant (other officers referred to him as "sergeant," white male, 6'0", muscular, blue eyes, blond hair, age 35) that the officers had a search warrant because cocaine was being sold out of her apartment. The sergeant told § 87(2)(b) to "shut up and sit down." He asked her to comply with the officers and tell them "where the stash is at." § 87(2)(b) said that they had gotten the wrong apartment. The officers did not find any contraband in the apartment; nonetheless, they arrested her because she was the owner of the apartment and because there was "marijuana all over the place," according to the police. § 87(2)(b) and § 87(2)(b) were taken to the 46th Precinct stationhouse and then to Bronx Central Booking. They were released on their own recognizance; their next court date is § 87(2)(b).

§ 87(2)(b) stated that her main concern is being compensated for the damage to the apartment.

Results of Investigation

§ 87(2)(b) (Victim)

§ 87(2)(b) a § 87(2)(b), provided a statement via telephone on November 15, 2006 (Encl. 8). § 87(2)(b) stated that on November 8, 2006 at approximately 6:00 PM, he was at a store just outside of his apartment building when a neighbor across his hallway § 87(2)(b) refused to provide the neighbor's name) called him and informed him that police officers kicked in his door. § 87(2)(b) later learned from § 87(2)(b), his godson who was home, that officers rushed through all the rooms and kicked in his bedroom door. § 87(2)(b) returned home and identified himself as a resident of the apartment. Officers pushed him to the floor and handcuffed him. They then sat him up and asked him where the guns and cocaine were. The officers were "ripping" the walls, breaking the glass on their entertainment center, and searching the house. The officers accused § 87(2)(b) of having sold cocaine in his house for the past couple of years. Officers searched § 87(2)(b) and removed \$180 from his pockets, which was later vouchered. An ACS worker who was present said the officers called her because a child was home alone in the apartment. When § 87(2)(b) arrived home, the officers arrested her and showed § 87(2)(b) and § 87(2)(b) the search warrant; it did not have either of their names on it, but rather, only the apartment number. The officers did not find any cocaine, but they found a "marijuana roach" in an ashtray. § 87(2)(b) was charged with possession of marijuana and endangering the welfare of a child.

§ 87(2)(b) was very upset that the police officers "illegally" entered and searched his house, not based on actual cocaine buys that they [the officers] had made, § 87(2)(e), § 87(2)(f)

Police Documents

The search warrant related to this case, § 87(2)(b) (Encl. 9), was requested by Officer Daniel Howell in § 87(2)(b) County and was signed by § 87(2)(b) on § 87(2)(b). The warrant stipulated that the officers were authorized to search § 87(2)(b) within ten days and between the hours of 6:00 AM and 9:00 PM, and that the officers need not announce their presence prior to entry.

The Pre-Warrant Entry Form (Encl. 10a-b) indicates that Officer Howell requested the warrant, that Sergeant Christopher Clark was to be the supervisor on scene, and that Captain Lorenzo Johnson was to be the ranking officer on scene. § 87(2)(e), § 87(2)(f) cs. ESU was not involved.

The Post-Warrant Entry Form (Encl. 11a-b) indicates that the warrant was executed on November 8, 2006 at 5:55 PM. Lieutenant Christopher McCormack was the entry supervisor. "Small marijuana cigarettes" were found and two arrests were made. The form notes, "At t/p/o hit door, subject location with ram. Entered subject location."

The arrest report for § 87(2)(b) notes that at 6:30 PM on November 8, 2006, she was arrested while executing the above-mentioned search warrant. The arrest report for § 87(2)(b) is consistent; he was arrested at 6:20 PM. Their arresting officer was Officer Howell (Encl. 13a-14c).

Office of the Court of Administration

§ 87(2)(b) and § 87(2)(b) were charged with endangering the welfare of a child and possession of marijuana. Their cases are currently in the pre-trial phase; their next court dates are § 87(2)(b) (Encl. 15a-16e).

Complainant/Officer CCRB History

This is § 87(2)(b)'s and § 87(2)(b)'s first CCRB complaint (Encl. 4-5). In his 17-year tenure, Lieutenant McCormack has 12 substantiated CCRB allegations on record. In case 9703208, the board substantiated an allegation of abuse of authority (other). In case 9803109, the board substantiated an allegation of abuse of authority (property seized). In each of those cases, the penalty imposed is unavailable. In case 200300663, the board substantiated four allegations of abuse of authority (frisk and/or search), two allegations of abuse of authority (threat of arrest), two allegations of abuse of authority (other),

an allegation of abuse of authority (vehicle search), and an allegation of abuse of authority (refusal to provide name/shield number). Lieutenant McCormack was found not guilty in the DCT trial (Encl. 3a-d).

Conclusions and Recommendations

Officer Identification

The Post-Warrant Execution Form identified Lieutenant McCormack as the supervisor on scene; therefore allegation A is pleaded against him.

*** Note Regarding Allegations**

§ 87(2)(b) and § 87(2)(b) noted that the officers damaged property in their apartment. However, because it is standard that property damage be incurred when a search warrant is executed, this allegation was not pleaded. Also, § 87(2)(b)'s allegation that his person was searched is not pleaded because the search was conducted incident to a lawful arrest, and is standard police procedure.

Allegation A) Abuse of Authority: Lieutenant Christopher McCormack supervised the entry and search of § 87(2)(b) in the Bronx.

Pursuant to Criminal Procedure Law 690.30 (Encl. 1a-b), a search warrant must be executed within ten days of its issuance and between the hours of 6:00 AM and 9 PM. § 87(2)(g)

Allegation B) Force: An officer used physical force against § 87(2)(b)

§ 87(2)(b) alleged that when he returned home, he identified himself as a resident of the apartment and officers immediately pushed him to the ground and handcuffed him. Patrol Guide Procedure 203-11 (Encl. 2) states that officers should use "only the amount of force necessary to overcome resistance" to effect an arrest. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: